

§ 792.101

792.229 May an agency place restrictions or requirements on the use of these funds, and may the agency restrict the disbursement of such funds to only one type of care or to one location?

792.230 May an agency use appropriated funds to improve the physical space of the family child care homes or child care centers?

792.231 Is an agency permitted to make advance child care subsidy payments for an individual Federal employee?

AUTHORITY: Sec. 201 of Pub. L. 91-616, 84 Stat. 1849, as amended and transferred to sec. 520 of the Public Health Services Act by sec. 2 (b)(13) of Pub. L. 98-24 (42 U.S.C. 290dd-1) and sec. 413 of Pub. L. 92-255, 86 Stat. 84, as amended and transferred to sec. 525 of the Public Health Service Act by sec. 2(b)(16)(A) of Pub. L. 98-24 (42 U.S.C. 290ee-1); Sec. 643, Pub. L. 106-58, 113 Stat. 477.

Subpart A—Regulatory Requirements for Alcoholism and Drug Abuse Programs and Services for Federal Civilian Employees

§ 792.101 Statutory requirements.

Sections 290dd-1 and 290ee-1 of 42 United States Code, provide that the Office of Personnel Management shall be responsible for developing and maintaining, in cooperation with the Secretary of the Department of Health and Human Services, and with other Federal departments and agencies, appropriate prevention, treatment, and rehabilitation programs and services for Federal civilian employees with alcohol and/or drug problems. To the extent feasible, agencies are encouraged to extend services to families of alcohol and/or drug abusing employees and to employees who have family members who have alcohol and/or drug problems. Such programs and services shall make optimal use of existing government facilities, services, and skills.

[50 FR 16692, Apr. 29, 1985]

§ 792.102 General.

It is the policy of the Federal Government to offer appropriate prevention, treatment, and rehabilitation programs and services for Federal civilian employees with alcohol and/or drug problems. Short-term counseling and/or referral, or offers thereof, shall constitute the appropriate prevention,

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treatment, and rehabilitation programs and services for alcohol abuse, alcoholism, and/or drug abuse required under 42 U.S.C. 290dd-1(a) and 290ee-1(a). Federal departments and agencies must establish programs to assist employees with these problems in accordance with the legislation cited in § 792.101.

[50 FR 16692, Apr. 29, 1985]

§ 792.103 Coverage.

This part applies to all positions in Executive agencies as defined in section 105 of title 5 of the United States Code, and to those positions in the legislative and judicial branch of the Federal Government which are in the competitive service.

[49 FR 27921, July 9, 1984]

§ 792.104 Responsibilities of the Office of Personnel Management.

OPM shall provide overall leadership for the Government-wide alcoholism and drug abuse program in cooperation with the Secretary of Health and Human Services. To accomplish this, OPM shall develop and issue policy and program guidance, provide technical assistance to agencies, and determine the overall effectiveness of the Government-wide program, as well as those programs at individual agencies, based on program information required of agencies.

[49 FR 27921, July 9, 1984]

§ 792.105 Agency responsibilities.

(a) Agencies shall establish and administer programs through which practitioners who are knowledgeable in counseling and referral services can offer and provide employees who have alcohol and/or drug problems short-term counseling and/or referrals for long-term counseling or treatment.

(b) Agencies shall issue internal instructions implementing the requirements of 42 U.S.C. 290dd-1(a) and 290ee-1(a) and this regulation.

(c) Whenever a manager/supervisor becomes aware that a Federal employee's use of alcohol and/or drugs may be contributing to a performance or conduct deficiency, the manager/supervisor shall recommend counseling and

refer the employee to the agency counseling program. If an employee fails to participate in any rehabilitative program or, having participated, the employee fails to bring conduct or performance up to satisfactory level, the agency shall evaluate the employee accordingly and initiate an appropriate performance-based or adverse action.

(d) As requested, agencies shall annually submit a report to OPM on their counseling activities for the past fiscal year at a time, and in a manner, set by OPM.

[49 FR 27921, July 9, 1984, as amended at 50 FR 16692, Apr. 29, 1985]

Subpart B—Agency Use of Appropriated Funds for Child Care Costs for Lower Income Employees—What Is the Child Care Subsidy Program Legislation and to Whom Does It Apply?

SOURCE: 68 FR 14128, Mar. 24, 2003, unless otherwise noted.

§ 792.200 What are the benefits of the child care subsidy program law?

Sec. 630 of Public Law 107-67 permits executive agencies to use appropriated funds to improve the affordability of child care for lower income Federal employees. The law applies to child care in the United States and in overseas locations. Employees can benefit from reduced child care rates at Federal child care centers, non-Federal child care centers, and in family child care homes for both full-time and part-time programs such as before and after school programs and daytime summer programs.

§ 792.201 What is the purpose of the child care subsidy program law?

The law is intended to make child care more affordable for lower income Federal employees through the use of agency appropriated funds.

§ 792.202 Do agencies have any notification responsibilities before initiating a child care subsidy program and when may agencies obligate funds for the program?

An agency intending to initiate a child care subsidy program must provide notice to the House Subcommittee on Treasury, Postal Service and General Government Appropriations; to the Senate Subcommittee on Treasury and General Government Appropriations; and to its appropriations subcommittees prior to the obligation of funds. The agency must also notify OPM of its intention. The agency must give notice to these Congressional committees and OPM annually, and funds may be obligated immediately after the agency has made these notifications.

§ 792.203 What materials are available to assist agencies with the process of establishing a child care subsidy program?

OPM has developed guidance that contains samples of memoranda of understanding, marketing tools, child care subsidy program applications, and models for determining subsidy program eligibility. These materials are found in the "Guide for Implementing Child Care Legislation—Public Law 107-67, Sec. 630." The Guide is available on OPM's Web site, <http://www.opm.gov/wrkfam>. Agencies may also obtain a copy by writing to OPM at U.S. Office of Personnel Management, Office of Work/Life Programs, 1900 E St., NW., Washington, DC 20415.

§ 792.204 Are there any special reporting and oversight requirements related to the child care subsidy program law?

Agencies are responsible for tracking the utilization of their funds and reporting the results to OPM. OPM will provide agencies the mandatory reporting form for this purpose. OPM also will produce an annual report for use by the agencies.